

Private Landowners Clearing Protected Native Plants

Arizona has a great number of plants that cannot be found in other states. Over 350 species of plants are protected, some because of their rarity and others because they are desired commercially for landscaping and by collectors whose actions would soon put them in rare status. The native plant law requires that a person must have a permit to be in possession of any protected native plant taken from its habitat. Moreover, it is unlawful to destroy or mutilate any protected native plant.

Landowners have the right to sell or give away any plant growing on their land. However, no person may legally transport protected native plants for commercial sale from any land without first obtaining a permit from the Arizona Department of Agriculture. As a landowner, you have the right to destroy or remove any plant growing on your land, but if plants are going to be destroyed, notification must first be filed with the Arizona Department of Agriculture before the plan is initiated. Landowners may not find it unusual to destroy native plants growing wild on their land before they start construction or similar projects. But, there are two good reasons to consider before doing so:

- First, there are salvage operators who may want to save these plants before the need to destroy them.
- Secondly, under Arizona's Native Plant Law, it may be illegal to destroy these plants, including the common desert trees, without following certain required notice procedures.

The Law requires at least verbal notice be given if the area in which plants are to be destroyed is less than one acre, but you must wait until you have received written confirmation of the notice from the Department, and until the 20 day period has expired to commence destruction. The Law also requires a 30 day written notice if the area is over an acre but less than 40 acres. And a 60 day written notice if the area is 40 or more acres. The notice is effective for one year.



Picturesque desert landscape



Land after being cleared of native plants

The content of the notice is simply the name and address of the landowner or agent, the estimated date of destruction, and a general description of the area in which the plants will be destroyed. The notice form can be obtained from the Department's website at www.azda.gov. When the Department receives these notices of intended land clearing, they're posted in our Phoenix and Tucson offices and mailed to any party who has arranged to be on a mailing list.

In this way, salvage operators and other parties that have an interest in these plants, can thereby learn of any impending and lawful clearing of protected plants in order to examine the potential for their salvage. The techniques for the salvage of plants, and the notice requirements, will make it easier for landowners to deal with protected plants. The landowner can have the Department review the area to be cleared and tell him/her if protected plants are present. This is also something that most competent salvage operators are willing to do.

The law includes two exemptions from the notice requirement:

- Clearing of native plants which occur in the normal and ongoing practices of mining, farming and livestock raising operations.
- Clearing of native plants on individually owned residential property of ten acres or less, where initial construction has occurred.